

RECORD OF PROCEEDINGS
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-01384

COUNSEL: NONE

HEARING DESIRED: NO

JUL 1 1994

107.00 110.00

131.05

142.00

APPLICANT REQUESTS THAT:

He be awarded the Air Force Commendation Medal (AFCM) for an act of courage on 27 Nov 71.

The grade on his Air Force Reserve discharge documents be corrected. (Examiner's Note: It appears he would like the documents to reflect Staff Sergeant (E-5) vice Sergeant (E-4).

His military records be corrected to reflect temporary duty (TDY) in Southeast Asia.

APPLICANT CONTENDS THAT:

He should have received the AFCM for courageous actions performed in 1971.

Although the applicant has not specifically stated the reason for his request to have his rank at the time of his discharge changed, he provided copies of his Air Force Reserve order and discharge certificate reflecting the grade of staff sergeant (E-5) (Exhibit A, atch 3).

While stationed at Columbus AFB, MS, he went TDY to Thailand and South Vietnam from 3 Dec 70 until 30 May 71 (Exhibit A, atch 4).

In support of his request, applicant submits copies of a congressional inquiry, with attachente, SAF/LL response to the congressional, copies of his Air Force Reserve discharge orders and certificate, a personal statement regarding his temporary duty (TDY), a letter from AFMPC/DPMASA, dtd 13 May 93, and a congressional inquiry, w/attachment. These documents are appended at Exhibit A, atchs 1 through 6.

STATEMENT OF FACTS:

The applicant's military personnel records reflect he enlisted in the Regular Air Force on 6 Aug 71 for a period of four years, with no prior service. On 5 Aug 74, he was released from active duty and transferred to the Air Force Reserve at Expiration of Term of Active Obligated Service in the grade of sergeant (E-4). He was honorably discharged from the Air Fore Reserve on 5 Aug 77 in the grade of sergeant (E-4), Reserve Order CA-033984.

Applicant's DD Form 214 (Blocks 18.f. and 19) does not reflect any foreign travel while in the Regular Air Force (6 Aug 71 through 5 Aug 75).

The applicant provided documentation regarding his award recommendation package. On 18 Aug 92, applicant's former squadron commander requested a waiver of the time limitations and resubmitted his recommendation for award of the Airman's Medal. On 29 Dec 92, Air Training Command (ATC/ADP) disapproved the award recommendation; however, they suggested award of the AFCM, pending approval of a time limitation by AFMPC. The request for waiver of the time limitation was disapproved by AFMPC on 10 Feb 93. These documents are appended at Exhibit A, atch 1.

AIR STAFF EVALUATION:

The Recognition and Programs Branch, AFMPC/DPMASA, reviewed this application regarding award of the Air Force Commendation Medal (AFCM) and recommended denial. They stated that the Airman's Medal was disapproved and award of the AFCM was recommended pending approval of waiver of time limitation by the Air Force Military Personnel Center (AFMPC). The request for waiver of time limitation was disapproved by AFMPC based on the fact that status checks were made in 1972 and 1973 and no action was taken. The governing directive outlines desired timely submission for recognition for outstanding achievement "submission by 60 days after the act or achievement." The governing regulation stipulates statutory time limitations as "formally entered into official channels within 2 years and decoration awarded within 3 years of the termination date of the act, achievement or service performed." Over 20 years have passed since the act was performed in this case. A complete copy of this evaluation is appended at Exhibit C.

An additional advisory opinion was requested regarding correction of the applicant's rank upon discharge from the Air Force Reserve.

The Air Reserve Personnel Center, HQ ARPC/DPAD, stated that the applicant's military personnel records indicate his last promotion was to the rank of sergeant (E-4). He was discharged

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by Reserve Order CA-033984, 6 Aug 77, with the rank of sergeant (E-4) as verified by the notarized copy of the discharge order. The documents furnished by the applicant as attachments to his DD Form 149 were falsified to indicate the rank of staff sergeant (E-5) by someone other than the orders issuing authority. They recommend denial of the applicant's request. A complete copy of this evaluation is appended at Exhibit D.

APPLICANT'S REVIEW OF AIR STAFF EVALUATION:

A copy of the Air Staff evaluation was forwarded to applicant on 28 May 93 for review and response. A copy of the additional Air Staff evaluation was forwarded to applicant on 9 Mar 94 for review and response. As of this date, no response has been received by this office (Exhibit E).

FINDINGS AND CONCLUSIONS OF THE BOARD

1. The application was not filed within three years after the alleged error or injustice was discovered, or reasonably could have been discovered, as required by Section 1552, Title 10, United States Code (10 USC 1552, and Air Force Regulation 31-3. Thus the application is untimely.

2. Paragraph b of 10 USC 1552 permits us, in our discretion, to excuse untimely filing in the interest of justice. We have carefully reviewed applicant's submission and the entire record, and we do not find a sufficient basis to excuse the untimely filing of this application. The applicant has not shown a plausible reason for delay in filing, and we are not persuaded that the record raises issues of error or injustice which require resolution on the merits at this time. Accordingly, we conclude that it would not be in the interest of justice to excuse the untimely filing of the application.

DECISION OF THE BOARD:

The application was not timely filed and it would not be in the interest of justice to waive the untimeliness. It is the decision of the Board, therefore, to reject the application as untimely.

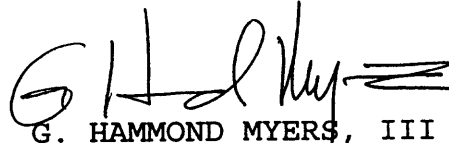
The following members of the Board considered this application in Executive Session on 9 Jun 94, under the provisions of AFR 31-3:

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G. Hammond Myers, III, Panel Chairman
Scott W. Stucky, Member
Joseph T. Wagner, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 8 Apr 93, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFMPC/DPMASA, dated 13 May 93.
- Exhibit D. Letter, ARPC/DPAD, dated 11 Jan 94.
- Exhibit E. Letters, AFBCMR, dated 28 May 93 and 9 Mar 94.


G. HAMMOND MYERS, III
Panel Chairman

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